

FIRST REGULAR SESSION

SENATE BILL NO. 193

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROHRBACH,

Pre-filed December 13, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0775S.011

AN ACT

To repeal sections 375.012, 375.014, 375.016, 375.017, 375.018, 375.019, 375.020, 375.021, 375.022, 375.025, 375.027, 375.030, 375.031, 375.033, 375.035, 375.037, 375.039, 375.051, 375.061, 375.065, 375.071, 375.076, 375.081, 375.082, 375.086, 375.091, 375.096, 375.101, 375.106, 375.116, 375.121, 375.136, 375.141, 375.142 and 375.146, RSMo 2000, relating to the licensing of insurance producers, and to enact in lieu thereof twenty-five new sections relating to the same subject, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 375.012, 375.014, 375.016, 375.017, 375.018, 375.019, 375.020, 375.021, 375.022, 375.025, 375.027, 375.030, 375.031, 375.033, 375.035, 375.037, 375.039, 375.051, 375.061, 375.065, 375.071, 375.076, 375.081, 375.082, 375.086, 375.091, 375.096, 375.101, 375.106, 375.116, 375.121, 375.136, 375.141, 375.142 and 375.146, RSMo 2000, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 375.019, 375.020, 375.031, 375.033, 375.035, 375.037, 375.039, 375.051, 375.065, 375.097, 375.098, 375.099, 375.100, 375.102, 375.103, 375.104, 375.105, 375.107, 375.108, 375.109, 375.110, 375.111, 375.116, 375.121 and 375.146, to read as follows:

[375.012. As used in this chapter, the following words mean:

(1) "Broker", an insurance broker is any natural person who, for a commission, brokerage consideration, or other thing of value, acts or aids in any manner in negotiating contracts of insurance, or in placing risks or in soliciting or effecting contracts of insurance as an agent for an insured other than himself and not as an agent of an insuring company or any other type of insurance carrier. The term "broker" shall not apply to a person

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

working as an officer for an insurance carrier, or in a clerical, administrative or service capacity for an insurance carrier or for a licensed agent or broker provided that the person does not solicit contracts of insurance. The term "broker" shall not apply to an insured's placing, or negotiating the placement of, his own insurance; nor shall the term "broker" apply to any employee of an insured engaged in placing or negotiating for placement of insurance for his employer;

(2) "Director", the director of the department of insurance;

(3) "Insurance agency", any individual transacting or doing business under any name other than his true name, any partnership, unincorporated association or corporation, transacting or doing business with the public or insurance companies as an insurance agent or broker;

(4) "Insurance agent", any authorized agent of an insurer, or representative of the agent, who acts as an agent in the solicitation of, negotiation for, or procurement or making of, any insurance or annuity contract, other than the attorney in fact or a traveling salaried representative of a mutual, reciprocal, or stock insurer;

(5) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometric and other similar health service plans, unless their exclusion from this definition can be clearly ascertained from the context of the particular statutory section under consideration. "Insurer" shall also include all companies organized, incorporated or doing business under the provisions of chapters 375, 376, 377, 378, 379 and 381, RSMo. "Insurer" shall not include companies formed under section 354.700, RSMo. Trusteed pension plans and profit sharing plans qualified under the United States Internal Revenue Code as now or hereafter amended shall not be considered to be insurance companies or insurers within the definition of this section.]

[375.014. No person shall act in this state as an insurance agent unless he is licensed by the director as provided in this chapter.]

[375.016. 1. The director shall issue a license to any natural person, who is at least eighteen years of age, and has complied with the requirements of section 375.018, authorizing the licensee to act as an insurance agent in respect to any or all types of insurance as specified in such license, on behalf of any company which is authorized to do and transact such kinds of insurance business in this state.

2. Any license issued shall authorize only the licensee named in the license to act individually as agent thereunder.]

[375.017. 1. (1) The director shall not assess a greater fee for an insurance license or related service to a person not residing in the state based solely on the fact that the

person does not reside in this state.

(2) The director shall waive any license application requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by subsection 2 of this section, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

(3) A nonresident licensee's satisfaction of his or her home state's continuing education requirements for licensees shall constitute satisfaction of this state's continuing education requirements if the nonresident licensee's home state recognizes the satisfaction of its continuing education requirement imposed upon licensees from this state on the same basis. This section shall also apply to surplus line licensees licensed pursuant to chapter 384, RSMo.

2. (1) Unless denied pursuant to section 375.141, a nonresident person shall receive a nonresident agent or broker's license if:

(a) The person is currently licensed for the same line of authority as a resident and is in good standing in his or her home state;

(b) The person has submitted the proper request for licensure and has paid the fees required by law;

(c) The person has submitted or transmitted to the director the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed uniform application; and

(d) The person's home state awards nonresident licenses to residents of this state on the same basis.

(2) Notwithstanding any other provision of sections 375.012 to 375.146, a person licensed as a surplus licensee in his or her home state shall receive a nonresident surplus lines license pursuant to subdivision (1) of this subsection. Except as provided in subdivision (1) of this subsection, nothing in this subsection otherwise amends or supercedes any provision of chapter 384, RSMo.

(3) Notwithstanding any other provision of sections 375.012 to 375.146, a person licensed as a limited line credit insurance or other type of limited lines licensee in his or her home state shall receive a nonresident limited lines license, pursuant to subdivision (1) of this subsection, granting the same scope of authority as granted under the license issued by licensee's home state.

3. An individual who applies for an agent or broker's license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a

certification that, at the time of cancellation, the applicant was in good standing in the state or the state's licensee database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the licensee was licensed in good standing for the line of authority requested.

4. Subsections 1 to 3 of this section do not apply to excess and surplus licensees licensed pursuant to chapter 384, RSMo, except as provided in subdivision (3) of subsection 1 and subsection 2 of this section.

5. Any bank or trust company in its sale or issuance of insurance products or services, as authorized pursuant to section 362.105, RSMo, shall be subject to the insurance laws of this state and rules adopted by the department of insurance.】

【375.018. 1. In addition to any other requirement imposed by law or rule, no applicant for an agent's or broker's license shall be qualified therefor unless, within one year immediately preceding the date a written application is made to the director, the applicant has successfully completed a course of study approved by the director requiring the following hours of study, or the equivalent thereof, for the following licenses: Not less than twenty hours for a license limited to fire and allied lines insurance and twenty hours for general casualty insurance, or forty hours combined of fire and allied lines and general casualty insurance; and not less than fifteen hours for a license limited to life insurance and fifteen hours for accident and health insurance. Any agent who is certified by the Federal Crop Insurance Corporation on September 28, 1985, to write federal crop insurance shall not be required to have a fire and allied lines license for the purpose of writing federal crop insurance. The director shall grant authority until revoked to such public and private educational organizations, technical colleges, trade schools, insurance companies or insurance trade organizations, or other approved organizations that provide satisfactory evidence that the courses of study actually taken by the applicant were in substantial compliance with the requirements established by the director. The director shall require the applicant to furnish a certificate of completion of any required courses of study from the authorized educational organizations. Every applicant seeking approval for a course of study by the director under this section shall pay to the director a filing fee of fifty dollars per course, unless it is a not-for-profit agents' group or association which provides no compensation to the course instructor. Such fee shall accompany any application form required by the director for such course approval. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the director's previous approval.

2. Before any insurance agent's license is issued, there shall be on file in the office

of the director the following:

(1) A written application made under oath by the prospective licensee in the form prescribed by the director. The application form shall contain answers to the following interrogatories: name, address, date of birth, sex, past employment for the three-year period immediately preceding the date of the application, past experience in insurance, status of accounts with insurance companies and agents, criminal convictions or pleas of nolo contendere for felonies or misdemeanors, or currently pending felony charges or misdemeanor charges excluding minor traffic violations, and if a surety bond has ever been refused or revoked as a result of dishonest acts or practices. In addition, the application form shall contain a statement as to the kinds of insurance business in which the applicant intends to engage; and

(2) A fee of twenty-five dollars must accompany each application for an agent's license.

3. The director shall, in order to determine the competency of every individual applicant for a license, require the individual applicant to take and pass to the satisfaction of the director a written examination upon the kind or kinds of insurance business specified in his or her application. Such examinations shall be held at such times and places as the director shall from time to time determine. The director may, at his order or discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the director, and examination fees charged by such service shall be paid by the applicant. An examination fee represents an administrative expense and is not refundable.

4. The examination shall be as prescribed by the director and shall be of sufficient scope so as to reasonably test the applicant's knowledge relative to the kind or kinds of insurance which may be dealt with under the license applied for by the applicant. The applicant shall be notified of the result of the examination within twenty working days of the examination. The applicant may begin to act as an agent for those lines for which the applicant has passed an examination and completed the study requirements required by subsection 1 of this section and a license has been received by the applicant.

5. No examination or approved course of study required by subsection 1 of this section shall be required of:

(1) An applicant who is a ticket-selling agent or representative of a common carrier or other company who acts as an insurance agent only in reference to the issuance of insurance contracts primarily for covering the risk of travel;

(2) An applicant who holds a current license in another state which requires a written examination satisfactory to the director;

(3) An applicant for the same kind of license as that which was held in another state

within one year next preceding the date of the application and which the applicant secured by passing a written examination and fulfilling comparable study requirements, and provided that the applicant is a legal resident of this state at the time of the application and is otherwise deemed by the director to be fully qualified;

(4) An applicant who is an owner of an individually owned business, his employee, or an officer or employee of a partnership or corporation who solicits, negotiates or procures credit life, accident and health or property insurance in connection with a loan or a retail time sale transaction made by the corporation, partnership, or individual business, or in a business in which there is conducted wholly or partly retail installment transactions under chapter 365, RSMo;

(5) Any person selling title insurance.

6. Every application for a license which may be granted without examination shall be accompanied by a fee of twenty-five dollars.

7. Subsection 1 of this section shall not apply to any person licensed as an agent or broker on January 1, 1986, unless the agent or broker applies for a type of license or line of insurance for which the agent or broker is not licensed as of January 1, 1986.

8. The biennial renewal fee for an agent's license is twenty-five dollars for each license. An agent's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 375.141; except that if the biennial renewal fee for the license is not paid within ninety days after the biennial anniversary date or if the agent has not complied with section 375.020 if applicable within ninety days after the biennial anniversary date, the license terminates as of ninety days after the biennial anniversary date.

9. Any nonresident agent who has not complied with the provisions of section 375.020 may not reapply for an agent license until that agent has taken the continuing education courses required under section 375.020.

10. An agent whose license terminated for nonpayment of the biennial renewal fee or noncompliance with section 375.020 may apply for a new agent's license because of such nonpayment or noncompliance, except that such agent must comply with all provisions of this section regarding issuance of a new license if such license was terminated for noncompliance with section 375.020, or shall pay a late fee at the rate of twenty-five dollars per month or fraction thereof after the biennial anniversary date if such license was terminated for nonpayment of the renewal fee, except that nothing in this subsection shall require the director to relicense any agent determined to have violated the provisions of subsection 1 of section 375.141.]

375.019. To assist the director to carry out the provisions of section [375.018] **375.099** there shall be an "Advisory Board on Licensing and Examination of Insurance [Agents and Brokers]

Producers" consisting of nine insurance [agents or brokers] **producers** duly licensed by the state of Missouri. An insurance [agent or broker] **producer** to be eligible for service on the state board on examinations shall be a citizen of the United States, a resident insurance [agent or broker] **producer** of the state of Missouri, licensed as an insurance [agent or broker] **producer** by the state of Missouri. Members of the board shall be appointed by the director. The director shall appoint four members for two-year terms and five members for three-year terms. Membership on the board shall terminate for failure to meet any of the qualifications for eligibility, death, disability, inability to serve or resignation, absence from two consecutive regular meetings without acceptable excuse filed in writing to the board, or removal by the director. The board shall meet regularly at a place designated by the director within the state of Missouri at least annually and whenever deemed necessary by the director. At the regular meeting the board shall elect officers and transact any other such business as may properly come before the board. Five members shall constitute a quorum. The officers of the board shall consist of a [chairman] **chairperson** and vice [chairman] **chairperson** elected for a term of one year. The [chairman] **chairperson**, or in the event of [his] **the chairperson's** inability to serve, the vice [chairman] **chairperson**, shall preside at all meetings of the board, appoint committees, and perform the usual duties of such office. The board shall appoint a secretary who shall be a member of the board. The secretary shall keep correct minutes of all meetings of the board, furnishing a copy to each member and the director, mail notices of all meetings no less than ten days in advance thereof, and otherwise perform the usual duties of such office. The board shall make recommendations, including, but not limited to, courses of study required under subsection 1 of section 375.018,] the approval of any educational or trade organizations and insurance companies[,] and any other matter that pertains to the study requirements provided by [subsection 1 of] section [375.018] **375.099**. The board shall seek at all times to maintain and increase the effectiveness of examinations for insurance [agent or broker] **producer** licenses and shall advise and consult with the director with respect to the preparation and the conduct of insurance [agent or broker] **producer** examinations. The board shall recommend such changes as may expedite or improve any phase of the examination procedure or the method of conducting examinations. The board shall receive suggestions regarding the examination for consideration and discussion. The board shall make rules and determine procedure, with the approval of the director, in reference to other matters which may properly come before a board on examinations. Each member of the board on beginning his or her term of office shall file with the director a written pledge of faithful and honorable performance. The members of the board shall receive no compensation or expenses in connection with the performance of their duties.

375.020. 1. Beginning January 1, 1990, each insurance [agent and insurance broker] **producer**, unless exempt [under subsection 7, 8 or 9 of] **pursuant to** this section, licensed to sell insurance in this state shall successfully complete courses of study as required by this section. Any

person licensed to act as an insurance [agent or insurance broker] **producer** shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of ten hours of instruction for a life or accident and health license or both a life and an accident and health license and a minimum ten hours of instruction for a property or casualty license or both a property and a casualty license. Sixteen hours of training will suffice for those with a life, health, accident, property and casualty license. Of the sixteen hours training required above, the hours need not be divided equally. The courses or programs shall include instruction on Missouri law. Course credit shall be given to members of the general assembly as determined by the department.

2. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

- (a) American College Courses (CLU, ChFC);
- (b) Life Underwriters Training Council (LUTC);
- (c) Certified Insurance Counselor (CIC);
- (d) Chartered Property and Casualty Underwriter (CPCU);
- (e) Insurance Institute of America (IIA);
- (f) An insurance related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;
- (g) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized [agents'] **producers'** association or insurance trade association. A local [agents'] **producers'** group may also be approved if the instructor receives no compensation for services.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

4. [Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program or seminar was held.

5.] For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

- (1) Serious physical injury or illness;
- (2) Active duty in the armed services for an extended period of time;

- (3) Residence outside the United States; or
- (4) Licensee is at least seventy years of age.

[6.] **5.** Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs or seminars of instruction taken and successfully completed by such person. A filing fee shall be paid by the person furnishing the report as determined by the director to be necessary to cover the administrative cost related to the handling of such certification reports, subject to the limitations imposed in subsection 10 of this section.

[7. The provisions of this section shall not apply to those natural persons holding licenses for any kind or kinds of insurance for which an examination is not required by the law of this state, nor shall they apply to any such limited or restricted license as the director may exempt.]

6. No examination or approved course of study required by this section shall be required of:

(1) An applicant who is a ticket-selling agent or representative of a common carrier or other company who acts as an insurance producer only in reference to the issuance of insurance contracts primarily for covering the risk of travel;

(2) An applicant who holds a current license in another state which requires a written examination satisfactory to the director;

(3) An applicant for the same kind of license as that which was held in another state within one year next preceding the date of the application and which the applicant secured by passing a written examination and fulfilling comparable study requirements, and provided that the applicant is a legal resident of this state at the time of the application and is otherwise deemed by the director to be fully qualified;

(4) An applicant who is an owner of an individually owned business, his or her employee, or an officer or employee of a partnership or corporation who solicits, negotiates or procures credit life, accident and health or property insurance in connection with a loan or a retail time sale transaction made by the corporation, partnership, or individual business, or in a business in which there is conducted wholly or partly retail installment transactions pursuant to chapter 365, RSMo;

(5) Any person selling title insurance.

7. Every application for a license which may be granted without examination shall be accompanied by a fee of seventy-five dollars.

8. The provisions of this section shall not apply to those natural persons holding or applying for a license to act as an insurance [agent or insurance broker] **producer** in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to the type of license then held or applied for by such person. [However, those natural persons holding or applying for a Missouri agent or broker license who reside in states which have

no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri agents and brokers.]

9. The provisions of this section shall not apply to a life insurance [agent] **producer** who is limited by the terms of a written agreement with the insurer, which the insurer filed on that [agent's] **producer's** behalf the appropriate appointment documents with the department of insurance, to transact only specific life insurance policies having an initial face amount of five thousand dollars or less, or annuities having an initial face amount of ten thousand dollars or less, that are designated by the purchaser for the payment of funeral or burial expenses. The director may require the insurer appointing such [agents] **producers** to certify as to the [agents'] **producers'** representations.

10. Rules and regulations necessary to implement and administer this section shall be promulgated by the director of the department of insurance, including, but not limited to, rules and regulations regarding the following:

(1) Course content and hour credits: The **director shall utilize the** insurance advisory board established by section 375.019 [shall be utilized by the director] to assist [him] **the director** in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Filing fees for course approval: Every applicant seeking approval by the director of a continuing education course [under] **pursuant to** this section shall pay to the director a filing fee of fifty dollars per course, except that such total fee shall not exceed two hundred fifty dollars per year for any single applicant. Fees shall be waived for local [agents'] **producers'** groups if the instructor receives no compensation for services. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval]. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the director's previous approval];

(3) Filing fee for continuing education certification: The director has the authority to determine the amount of the filing fee to be paid by [agents and brokers] **producers** at the time of license renewal, which shall be set at an amount to produce revenue which shall not substantially exceed the cost of administering this section, but in no event shall such fee exceed ten dollars per biennial report filed.

11. All funds received pursuant to the provisions of this section shall be transmitted by the director of the department of insurance to the department of revenue for deposit in the state treasury to the credit of the department of insurance dedicated fund. All expenditures necessitated by this section shall be paid from funds appropriated from the department of insurance dedicated fund by the legislature. [Any money in the insurance continuing education trust fund on June 26,

1991, shall be transferred to the credit of the department of insurance dedicated fund.]

12. When [the insurance agent or insurance broker] **an insurance producer** pays his **or her** biennial renewal fee, he **or she** shall also furnish the written certification and filing fee required by this section.

[375.021. A license issued to an agent shall authorize him to act as agent until such time as the license is terminated, suspended or revoked. Upon the termination, suspension or revocation of the license, the agent or any person having possession of the license shall immediately return same to the director and the director shall notify the agent and all companies appointing the agent by letter that the license is terminated, suspended or revoked. If at any time an agent has been without an appointment by a company for a period of two years, the director shall send the agent notice that the license will terminate within thirty working days except that if such agent has complied with the provisions of section 375.020 and has paid all licensing and other fees required by law, such agent's license shall not be so terminated. The agent may request a hearing before the director within thirty working days of notice of termination. Any insurance agent, broker or insurance agency holding a valid license on January 1, 1982, will not be required to take an examination or pay a fee for said license. In addition, no insurance company is required to appoint any agent which is designated on the records of the department of insurance as representing said company as of January 1, 1982.]

[375.022. 1. Every insurance company authorized to provide or transact insurance in this state shall, within thirty working days of an appointment of an agent to act for such insurance company, notify the director of such appointment upon forms prescribed by the director. Each appointment will result in a ten-dollar fee. The company shall remit these fees to the department of insurance on a quarterly basis. Such appointments may be made by appointing individual agents or by designating a licensed agency or a licensed organizational credit agency. The designation of an agency or an organizational credit agency shall be deemed to appoint all agents listed by such agency or listed as employees of such organizational credit agency pursuant to section 375.061 or section 375.065 to act for the insurance company in the lines for which the agent is licensed and the agency is designated. Any additional agents listed by the agency or additional agents listed by the organizational credit agency pursuant to section 375.061 or section 375.065 after the designation of the agency or the organizational credit agency shall be deemed appointed for all companies with existing designations of the agency or the organizational credit agency. The appointment of an agent pursuant to the provisions of this subsection shall terminate upon the agent's termination by or resignation from the agency or the organizational credit agency, upon termination of the agency or the organizational credit agency by the insurance company, or upon nonrenewal, suspension, surrender or

revocation of the agent's license. Every such insurance company shall notify the director within thirty working days of the termination of the appointment of any agent whether the termination is by action of the company or resignation of the agent. Each termination will result in a ten-dollar fee. When the cause of termination is for a reason that, pursuant to the provisions of section 375.141, would permit the director to revoke, suspend or refuse to issue an agent's license, the notice shall state the cause and circumstances of the termination. The notice shall be filed promptly after termination and within such time as may be prescribed by an appropriate order or regulation of the director of the department of insurance. The director may prescribe the form upon which the notification is to be given. The director shall upon written request by the agent furnish to him or her a copy of all information obtained pursuant to this section.

2. Any information filed by an insurance company or obtained by the director pursuant to this section and any document, record or statement required by the director pursuant to the provisions of this section shall be deemed confidential and absolutely privileged. There shall be no liability on the part of, and no cause of action shall arise against, any insurer, its agents or its authorized investigative sources or the director or the director's authorized representatives in connection with any written notice required by this section made by them in good faith.]

[375.025. The director may issue an agent's temporary license without requiring the applicant to pass a written examination in the following circumstances:

(1) To the surviving spouse or next of kin or the personal representative of a deceased agent, or to the spouse, next of kin, employee, or conservator of a licensed agent becoming disabled because of sickness, mental or physical disability, or injury, if in the director's opinion a temporary license is necessary for the continuation of the business of the agent thereby affected. Such license may be issued for a term not exceeding ninety days and the director may in his discretion renew such license for an additional term or terms of ninety days each, not exceeding in the aggregate fifteen months;

(2) To the designee of a licensed agent who shall enter active service in the armed forces of the United States for such period of time as in the opinion of the director may be necessary for the continuation of the business of the agent thereby affected.]]

[375.027. A nonrenewable temporary license may be issued for a period not to exceed ninety days in cases where an applicant has theretofore filed a completed application for a license, has secured a company appointment, has paid the applicable fees and where the director is satisfied as to the applicant's business reputation.]

[375.030. Any course or program of instruction approved for use to meet professional continuing education in another Missouri profession, as required by law, that relates to the topic of insurance shall meet the continuing education requirements pursuant

to section 375.020.]

375.031. As used in sections 375.031 to 375.039, the following words and terms mean:

(1) "Director", the director of the department of insurance;

(2) "Exclusive **[agent] insurance producer**", any licensed **[agent] insurance producer** whose contract with an insurer requires the **[agent] insurance producer** to act **as an agent** only for that insurer or a group of insurers under common ownership or control or other insurers authorized by that insurer;

(3) "Independent insurance **[agent] producer**", any licensed **[agent] insurance producer** representing an insurance company as an **agent who is an** independent contractor and not as an employee, or any individual, partnership or corporation transacting business with the public or insurance companies as an **agent that is an** independent insurance **[agent] producer**, but shall not include an exclusive **[agent] insurance producer**;

(4) "Insurer", any property and casualty insurance company doing business in the state of Missouri.

375.033. 1. All contracts between an insurer and an independent insurance **[agent] producer** in effect in the state of Missouri on or after September 28, 1979, shall not be terminated or canceled by the insurer except by mutual agreement or unless ninety days' written notice in advance has been given to the **[agent] independent insurance producer** and the director of insurance.

2. During the ninety days' notice period the independent insurance **[agent] producer** shall not write or bind any new business on behalf of the insurer without specific written approval.

375.035. 1. Any insurer in this state shall, upon termination or cancellation of an independent insurance **[agent's] producer's** contract, permit the renewal of all contracts of insurance written by the independent insurance **[agent] producer** for a period of one year from the date of termination, as determined by the underwriting requirements of the insurer. If any insured fails to meet the current underwriting requirements of the insurer, the insurer shall give the terminated independent insurance **[agent] producer** and the insured thirty days' notice of its intention not to renew the contract of insurance.

2. Any insurer renewing contracts of insurance in accordance with this section shall pay commissions for the renewals to the terminated or canceled independent insurance **[agent] producer** in the same amount and manner as paid to the independent insurance **[agent] producer** under the terminated or canceled contract.

3. When the insurer renews a contract of insurance **[under] pursuant to** this section, the renewal shall be for a time period equal to the greater of one year or one additional term of the term specified in the original contract.

375.037. 1. The director of insurance, on the written complaint of any person, or when **[he]**

the director deems it necessary without a complaint, shall determine whether there has been a violation of sections 375.031 to 375.037. After such determination, the director shall notify all parties concerned by certified mail and shall prescribe a method of cancellation to be followed by the concerned parties. Any party who is aggrieved by the decision of the director of insurance shall be entitled to judicial review thereof, as provided in sections 536.100 to 536.140, RSMo.

2. Sections 375.031 to 375.037 shall not apply if the director determines nonrenewal is necessary to preserve an insurer's solvency or to protect the insured's interest. Nor shall sections 375.031 to 375.037 apply in the case of fraud, failure to properly remit premiums, or whenever the director determines the license of the **[agent] insurance producer** could be revoked or not renewed **[under] pursuant to** the provisions of section **[375.141] 375.104**.

3. If any provision of sections 375.031 to 375.037 or the application thereof to any person or circumstances is held invalid, the validity of the remainder of sections 375.031 to 375.037 and of the application of such provision to other persons and circumstances shall not be affected thereby.

375.039. 1. No insurer may cancel, terminate or otherwise withdraw coverage for a certain class of commercial risk, unless written notice of such cancellation, termination, or withdrawal is given to the insurer's independent insurance **[agent] producer** authorized to sell such insurance coverage at least sixty days prior to such cancellation, termination or withdrawal.

2. The provisions of subsection 1 of this section shall not apply if the cancellation, termination or withdrawal of coverage by an insurer is by reason of reinsurance requirements, adverse loss experience, or by the requirement of the Missouri department of insurance. In these circumstances, the notice described in subsection 1 of this section shall be given at least thirty days prior to such cancellation, termination or withdrawal.

375.051. Any person who **is a licensed insurance producer and who** shall be appointed **[or who shall act as agent for] by** any insurance company within this state, **[or who shall, as agent, solicit applications, deliver policies or renewal receipts and collect premiums thereon,]** or who **is a licensed insurance producer and who** shall receive or collect moneys from any source or on any account whatsoever, **[as agent,]** for any insurance company doing business in this state, shall be held responsible in a trust or fiduciary capacity to the company for any money so collected or received by him **or her** for such company.

375.065. 1. Notwithstanding any other provision of this chapter, the director may license credit insurance **[agents] producers** by issuing individual licenses to such **[agents] producers** or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as **[agents] producers** for the following types of insurance:

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit involuntary unemployment insurance;
- (5) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

- (1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

- (2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property or any other form of credit or credit-related insurance approved by the director.

3. An organizational credit agency authorized pursuant to this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed licensed **[agents] producers** pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed **[agents] producers** for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

- (1) Paying a renewal fee of fifty dollars;
- (2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

5. Licenses which are not timely renewed shall expire thirty days after the anniversary

date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

6. Notwithstanding any other provision of law to the contrary, this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[375.061. 1. No insurance agency shall act as an agency in this state unless it is licensed by the director as provided in this chapter.

2. Before any insurance agency license shall be issued, there shall be on file in the office of the director the following documents and information:

(1) An application such as may be prescribed by the director showing the name of the agency, business address or addresses of the agency, whether the agency is a partnership, unincorporated association or corporation; if a partnership or unincorporated association, the name and residence of each and every person or corporation having an interest in or owning any part of the agency; if a corporation, the names and addresses of the officers and directors of the corporation;

(2) A list of all insurance agents or brokers employed or acting in behalf of or through the agency and to whom the agency pays any salary or commission for the solicitation of or negotiation for any insurance contract.

3. Within twenty working days after the change of any information submitted on the application, or upon termination of any agency, the agency shall notify the director of the change or termination. The notification is to be filed without charge.

4. Upon receipt of an application and the payment of a fee of one hundred dollars, the director, if satisfied that the agency has complied with the provisions herein provided, shall issue a license which shall continue until suspended or revoked or the agency is terminated by operation of law.

5. Each insurance agency shall be responsible for renewing its agency license biennially on the anniversary date of the original licensing or the agency license shall terminate. The fee for renewal shall be one hundred dollars. The department of insurance shall assess a late fee for any insurance agency which fails to renew its agency license within thirty days of the renewal date, at the rate of twenty-five dollars per month.

6. Notwithstanding any other provision, nothing herein shall prohibit any insurance company from paying a commission or other remuneration to a duly licensed insurance agency.

7. It shall be unlawful for an insurance agency to solicit, negotiate for or produce contracts of insurance except through duly licensed insurance agents or brokers.

8. Any owner, officer, manager or director willfully violating any provision of this section is guilty of a class A misdemeanor and upon conviction therefor, if the offender holds a broker's or agent's license, the court imposing sentence shall order the director of the department of insurance to revoke such license.]

[375.071. Unless exempted by subsection 7 of section 375.018, no person shall act as or hold himself out to be a broker until he has satisfied the study requirements of subsection 1 of section 375.018 and has procured a license as required by this chapter, and no broker shall solicit or take applications for, procure, or place for others any kind or kinds of insurance, or any subdivision thereof, for which he is not then licensed.]

[375.076. Any person desiring a license to act as a broker shall file with the director a fee of one hundred dollars and his written application in such form and give such information respecting his qualifications as the director may reasonably require.]

[375.081. 1. If satisfied that the applicant meets the requirements of sections 375.018 and 375.091, the director shall subject the applicant to a written examination as to his or her competence to act as broker for any kind or kinds of insurance, or subdivision thereof, for which he or she wishes to be licensed. Such examinations shall be held at such times and places as the director shall from time to time determine. The director may, at his or her discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the director, and examination fees charged by such service shall be paid by the applicant. An examination fee represents an administrative expense and is not refundable.

2. If the director is satisfied as to the qualifications of the applicant, he or she shall issue a license limited to the kind, or kinds, of insurance, or any subdivision thereof, for which the applicant is qualified.

3. Each applicant shall be advised of the result of his or her examination within twenty working days after the date of the examination.

4. The director may establish reasonable rules and regulations with respect to the scope, type, and conduct of uniform examinations and the times and places where they shall be held. The rules and regulations may require a reasonable waiting period before giving an examination to an applicant who has failed to pass a previous similar examination.]

[375.082. The director shall waive the examination for a person applying for a broker's license if such person has had a resident agent's license in more than one line of insurance for at least five years immediately preceding the time of application for a broker's license and is a resident of the state of Missouri at the time of application.]

[375.086. No examination shall be required of:

(1) An applicant for the same kind of license as that which he holds in this state as of January 1, 1982; or

(2) An applicant for the same kind of license as that which he has held in another state within one year next preceding the date of his application and which he secured by passing a written examination; and provided that the applicant is a legal resident of this state at the time of his application and is otherwise deemed by the director to be fully qualified and competent.]

[375.091. Any license required by this chapter shall be issued to any person who is at least eighteen years of age, a citizen of the United States, and who is trustworthy and competent to act, and intends to hold himself out in good faith as an insurance broker, and the license is not sought principally for the purpose of soliciting, negotiating or procuring insurance contracts covering himself or his spouse or insurance on property owned by the applicant.]

[375.096. 1. The biennial renewal fee for a broker's license is one hundred dollars for each license. A broker's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked, or suspended by the director in accordance with section 375.141; except that if the biennial renewal fee for the license is not paid within ninety days after the biennial anniversary date or if the broker has not complied with section 375.020 if applicable within ninety days after the biennial anniversary date, the license terminates as of ninety days after the biennial anniversary date.

2. Any nonresident broker who has not complied with the provisions of section 375.020 may not reapply for a broker's license until that broker has taken the continuing education courses required under section 375.020.

3. A broker whose license terminated for nonpayment of the biennial renewal fee or noncompliance with section 375.020 may apply for a new broker's license because of such nonpayment or noncompliance, except that such broker must comply with all provisions of sections 375.076, 375.082, 375.086, and 375.091 regarding issuance of a new license if such license was terminated for noncompliance with section 375.020, or shall pay a late fee at the rate of twenty-five dollars per month or fraction thereof after the biennial anniversary date if such license was terminated for nonpayment of the renewal fee, except that nothing in this subsection shall require the director to relicense any broker determined to have violated the provisions of subsection 1 of section 375.141.]

375.097. As used in this chapter, the following terms mean:

(1) "Director", director of the department of insurance;

(2) "Insurance agency" or "agency", any individual transacting or doing business under any name other than his or her true name, or any sole proprietor, corporation,

association, partnership, limited liability company or partnership, or other legal entity transacting or doing business with the public or insurance companies as an insurance producer;

(3) "Insurance producer" or "producer", a person required to be licensed pursuant to the laws of this state to sell, solicit or negotiate contracts of insurance;

(4) "Insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometric and other similar health service plans, unless their exclusion from this definition can be clearly ascertained from the context of the particular statutory section under consideration. Insurer shall also include all companies organized, incorporated or doing business pursuant to the provisions of chapters 375, 376, 377, 378, 379 and 381, RSMo. Insurer shall not include companies formed pursuant to section 354.700, RSMo. Trusteed pension plans and profit-sharing plans qualified under the United States Internal Revenue Code as now or hereafter amended shall not be considered to be insurance companies or insurers within the definition of this section;

(5) "License", a document issued by this state's director authorizing a person to act as an insurance producer in respect to any or all types of insurance specified in such license. The license does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier;

(6) "Licensee", an insurance producer or insurance agency;

(7) "Negotiate", the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract;

(8) "Person", an individual or an insurance agency;

(9) "Sell", to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;

(10) "Solicit", attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;

(11) "Terminate", the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

375.098. 1. No person shall sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed by the director for that class or those classes of insurance pursuant to this chapter.

2. Nothing in this chapter shall be construed to require an insurer to obtain an

insurance producer license. For purposes of this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates; provided that:

(1) The officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance; or

(2) The officer, director or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(3) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance.

3. The following persons shall not be required to obtain an insurance producer license:

(1) A person to whom no commission is paid for the performance of any of the following services:

(a) Securing and furnishing information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance;

(b) Securing and furnishing information for the purpose of enrolling individuals under plans, issuing certificates under plans or otherwise assisting in administering plans;

(c) Performing administrative services related to mass-marketed property and casualty insurance;

(2) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

(3) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state; provided that, the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(4) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract; provided that, such

person is otherwise licensed as an insurance producer or insurance agency to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;

(5) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission;

(6) Employees of an insurer or of an insurance producer who respond to requests from existing policyholders on existing policies; provided that, such employees are not directly compensated based on the volume of premiums that may result from these services and such employees do not otherwise sell, solicit or negotiate insurance; or

(7) Persons who provide general insurance advice in connection with providing professional services such as legal services, trust services, tax services, accounting services and financial planning and investment advisory services.

375.099. 1. A resident applying for an insurance producer license shall, within one year preceding the date an application for a license is submitted to the director pursuant to section 375.100, successfully complete a course of study approved by the director requiring hours of study as required by section 375.020 for each of the types of insurance licenses delineated in subsection 1 of section 375.100.

2. The director shall require the applicant to furnish a certificate of completion of any required courses of study from the authorized educational organizations.

3. The director shall grant authority until revoked to such public and private educational organizations, technical colleges, trade schools, insurance companies or insurance trade organizations, or other approved organizations that provide satisfactory evidence that the courses of study actually taken by the applicant were in substantial compliance with the requirements established by the director. Every applicant seeking approval for a course of study by the director pursuant to this section shall pay to the director a filing fee of fifty dollars per course, unless it is a not-for-profit producers' group or association which provides no compensation to the course instructor. Such fee shall accompany any application form required by the director for such course approval. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval.

4. Before applying for an insurance producer license, unless such person is exempt pursuant to subsection 3 of this section, a resident shall pass a written examination upon the kind or kinds of insurance business for which a licensee intends to apply for licensure, the duties and responsibilities of an insurance producer and the

insurance laws and regulations of this state. Such examinations shall be developed and conducted pursuant to rules prescribed by the director and shall be held at such times and places as the director shall from time to time determine. Each person applying for an examination shall remit a nonrefundable fee as prescribed by the director. The director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable examination fee. A person who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination, but shall remit all required fees and forms before being rescheduled for another examination.

5. No examination or approved course of study required by subsection 1 of this section shall be required of:

(1) An applicant who is a ticket-selling agent or representative of a common carrier or other company who acts as an insurance producer only in reference to the issuance of insurance contracts primarily for covering the risk of travel;

(2) An applicant who holds a current license in another state which requires a written examination satisfactory to the director;

(3) An applicant who is an owner of an individually owned business, his or her employee, or an officer or employee of a partnership or corporation who solicits, negotiates or procures credit life, accident and health or property insurance in connection with a loan or a retail time sale transaction made by the corporation, partnership, or individual business, or in a business in which there is conducted wholly or partly retail installment transactions pursuant to chapter 365, RSMo;

(4) Any person selling title insurance.

6. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

7. An individual licensed as an insurance producer in another state who moves to this state shall make application within ninety days of establishing legal residence to become a resident licensee and shall pay an application fee of seventy-five dollars. Such an individual, to the extent the person was previously licensed for the

same types of insurance in another state, shall be exempt from the requirements of subsections 1 and 2 of this section, except where the director determines otherwise by regulation.

8. An individual applying for a resident insurance producer license shall apply to the director on an application approved by the director and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. The application form shall contain answers to the following interrogatories: name, address, date of birth, sex, past employment for the three-year period immediately preceding the date of the application, past experience in insurance, status of accounts with insurance companies and producers, criminal convictions or pleas of nolo contendere for felonies or misdemeanors, or currently pending felony charges or misdemeanor charges excluding minor traffic violations, and if a surety bond has ever been refused or revoked as a result of dishonest acts or practices. In addition, the application form shall contain a statement as to the kinds of insurance business in which the applicant intends to engage. The director shall not approve any application unless the director determines that the applicant:

- (1) Is at least eighteen years of age;**
- (2) Has not committed any act that is a ground for denial, suspension or revocation set forth in section 375.104;**
- (3) Has completed a course of study approved by the director for the types of insurance for which the person has applied for licensure, if applicable;**
- (4) Has paid all fees required by law, including a license fee of seventy-five dollars; and**
- (5) Has successfully passed the examinations for the types of insurance for which the person has applied for licensure.**

9. The director may require any documents reasonably necessary to verify the information contained in an application.

375.100. An insurance agency acting as an insurance producer is required to obtain an insurance agency license. Application shall be made using an application approved by the director. Before approving the application, the director shall find that:

- (1) The insurance agency has paid all fees required by law; and**
- (2) The insurance agency has designated a licensed producer responsible for the insurance agency's compliance with the insurance laws of this state. Notwithstanding any other provision of law to the contrary, nothing in this chapter shall prohibit an insurance agency licensed as an insurance producer from paying a commission or other remuneration to another insurance agency entity licensed as an insurance producer. It**

shall be unlawful for an insurance agency to solicit, negotiate for or produce contracts of insurance except through individuals who are duly licensed insurance producers.

[375.101. The director shall, if requested, issue a broker's temporary license without requiring the applicant to pass a written examination in the following circumstances:

(1) To the surviving spouse or next of kin or to the personal representative of a deceased licensed broker or to the spouse, next of kin, employee or conservator of a licensed broker becoming disabled because of sickness, mental or physical disability or injury, if in the director's opinion the temporary license is necessary for the continuation of the business of the broker thereby affected. The license shall be issued for a term not exceeding six months and the director may in his discretion renew the license for an additional term of six months, thus not exceeding in the aggregate twelve months;

(2) To the appointee of a licensed broker who enters upon service in the armed forces of the United States, for such period of time as in the opinion of the director may be necessary for the continuation of the business of the broker thereby affected.]

375.102. 1. The director shall issue an insurance producer license to any resident individual or insurance agency who meets the applicable requirements of section 375.099 or 375.100. An insurance producer may receive qualification for a license in one or more of the following types of insurance:

(1) Life insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health or sickness insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income;

(3) Property insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property;

(5) Variable life and variable annuity products insurance coverage provided under variable life insurance contracts, variable annuities or any other life insurance or annuity product that reflects the investment experience of a separate account;

(6) Any other type of insurance license permitted pursuant to law.

2. An insurance producer's license and an insurance agency's license shall be renewed biennially on the anniversary date of issuance and shall remain in effect unless revoked or suspended if a biennial renewal fee of seventy-five dollars is paid; provided that, a resident individual licensee shall also timely meet all continuing education requirements prescribed by section 375.020.

3. An individual insurance producer who allows his or her license to expire may,

within twelve months from the due date of the renewal fee, reinstate such license without passing a written examination upon payment of a penalty in the amount of double the unpaid renewal fee. An insurance agency which allows its license to expire may, within twelve months from the due date of the renewal fee, reinstate such license upon payment of the original renewal fee plus a penalty in an amount equal to twenty-five dollars per month of delinquency.

4. An individual insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance such as a long-term medical disability may request a waiver of those procedures. Such a producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

5. Every license shall contain the licensee's name, address, personal identification number, date of issuance, types of insurance for which licensure is granted, the expiration date and any other information the director deems necessary.

6. Licensees shall inform the director by any means acceptable to the director of a change of address within thirty days of the change. A violation of this section shall result in a penalty as prescribed by the director.

375.103. 1. The director shall, unless license is denied pursuant to section 375.111, issue a nonresident individual insurance producer license to any nonresident person who:

- (1) Is currently licensed and in good standing in his or her home state;**
- (2) Has submitted the proper request for licensure and has paid all fees required by law;**
- (3) Has submitted or transmitted to the director the application for licensure that the individual submitted to his or her home state, or in lieu thereof, a completed Uniform Application;**
- (4) The individual's home state awards nonresident producer licenses to residents of this state on the same basis.**

2. The director may verify the producer's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

3. A nonresident insurance producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty days of the change of legal residence. No fee or license application is required.

4. Notwithstanding any other provision of sections 375.013 to 375.111, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident

surplus lines producer license pursuant to subsection 1 of this section. Except as to subsection 1, nothing in this section otherwise amends or supercedes any provision of chapter 384, RSMo.

5. Notwithstanding any other provision of sections 375.013 to 375.111, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license, pursuant to subsection 1 of this section, granting the same scope of authority as granted under the license issued by the producer's home state.

6. A violation of this section shall result in a penalty as prescribed by the director.

375.104. 1. The director may issue a temporary insurance producer license for a period not to exceed one hundred eighty days without requiring an examination if the director deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(1) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

(2) To a member or employee of a licensed insurance agency, upon the death or disability of an individual designated in the insurance agency application or the license;

(3) To the designee of a licensed insurance producer entering active service in the armed forces of the United States of America; or

(4) In any other circumstance where the director deems that the public interest will best be served by the issuance of a temporary license.

2. The director may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The director may require a temporary licensee to have a suitable sponsor who is a licensed producer, insurance agency or insurer and who assumes responsibility for all acts of the temporary licensee, and may impose other similar requirements designed to protect insureds and the public. The director may, by order, revoke a temporary license if the interest of insureds or the public are endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business.

375.105. 1. An insurer or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed pursuant to this chapter and is not so licensed.

2. A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed pursuant to this chapter and is not so licensed.

3. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed pursuant to this chapter at the time of the sale, solicitation or negotiation and was so licensed at that time.

4. An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate any other provision of law.

[375.106. Brokers shall negotiate contracts of insurance only with qualified domestic insurance companies, licensed insurance agencies or their agents, or foreign insurance companies duly admitted to do business in this state, or with a duly licensed surplus lines broker. Every broker shall notify the director of those insurance companies with whom he places risks. Such notification shall not take place more than ten days after he places the first such risk with such insurance company or surplus lines broker. Every broker shall also immediately notify the director when he no longer intends to place such risks with such insurance company or surplus lines broker on a regular basis. Willful failure of a broker to comply with this requirement shall cause the revocation or suspension of all licenses held by the broker.]

375.107. 1. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

2. To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the director, a notice of appointment within fifteen days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

3. Upon receipt of the notice of appointment, the director shall verify within a reasonable time not to exceed thirty days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the director shall notify the insurer within five days of its determination.

4. An insurer shall pay an appointment fee, in the amount and method of payment determined by the director for each insurance producer appointed by the insurer.

375.108. 1. (1) An insurer or authorized representative of the insurer shall notify the director within thirty days of the effective date of the termination of an appointment, in a format prescribed by the director. A ten-dollar fee shall be paid for each termination.

(2) If the termination is for one or more of the grounds for discipline set out in section 375.111 or the insurer has knowledge that the producer was found by a court, government body or self-regulatory organization authorized by law to have engaged in any of the activities set out in section 375.111, the insurer shall provide documentation regarding the activities that led to the termination. The director may request any additional information upon written request to the insurer.

(3) If additional information becomes available to the insurer after the termination that involves activities set out in section 375.111 or actions of a court, government body or self-regulatory organization, the insurer shall promptly notify the director of the additional information.

2. (1) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the director, or an organization of which the director is a member, and that compiles the information and makes it available to other directors or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the director, from an insurer or producer; or a statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause pursuant to subdivision (1) of this subsection was reported to the director; provided that, the propriety of any termination for cause pursuant to subdivision (1) of subsection 1 of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(2) In any action brought against a person that may have immunity pursuant to subdivision (1) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the director, the party bringing the action shall plead specifically in any allegation that subdivision (1) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.

(3) Subdivisions (1) and (2) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

3. (1) Until the close of an investigation by the director of an insurance producer

or insurance agency:

(a) Documents, materials or other information furnished by an insurer, producer or an employee or agent thereof acting on behalf of the insurer or producer, or obtained by the director in an investigation pursuant to this section shall be confidential by law and privileged, shall not be subject to chapter 610, RSMo, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the director is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the director's duties;

(b) Neither the director nor any person who received documents, materials or other information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subdivision (1) of this subsection.

(2) In order to assist in the performance of the director's duties pursuant to this chapter, the director:

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph (a) subdivision (1) of this subsection, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal and international law enforcement authorities; provided that, the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(b) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged pursuant to the laws of the jurisdiction that is the source of the document, material or information; and

(c) May enter into agreements governing sharing and use of information consistent with this subsection.

(3) No waiver of an existing privilege or claim of confidentiality in the documents, materials or information shall occur as a result of sharing as authorized in subdivision (2) of this subsection.

(4) Nothing in this chapter shall prohibit the director from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to chapter 610, RSMo, to a database or other clearinghouse service

maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries of the National Association of Insurance Commissioners.

4. An insurer, the authorized representative of the insurer, or producer that fails to report as required pursuant to the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined as provided by law.

375.109. 1. The director shall not assess a greater fee for an insurance license or related service to a person not residing in this state based solely on the fact that the person does not reside in this state.

2. The director shall waive any license application requirements for a nonresident license applicant with a valid license from his or her home state, except subsection 6 of section 315.102, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

3. A nonresident producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis. This subsection shall also apply to surplus lines licensees licensed pursuant to chapter 384, RSMo.

375.110. 1. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. Such report shall include a copy of the order, consent to order or other relevant legal documents.

2. Within thirty days after the issuance of a judgment and sentence a producer shall report to the director any criminal conviction involving a felony or crime of moral turpitude. The report shall include the name and address of the court which issued the judgment and sentence and a copy of the judgment and sentencing document.

375.111. 1. The director may suspend, revoke or refuse to issue or renew an insurance producer's or an insurance agency's license for one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application or obtaining or attempting to obtain a license through misrepresentation or fraud;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another state's director or head of the equivalent of this state's department of insurance;

(3) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(4) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(5) Having been convicted of a felony or crime involving moral turpitude;

(6) Having admitted or been found to have committed any insurance unfair trade practice;

(7) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(8) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(9) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(10) Improperly using notes or any other reference material to complete an examination for an insurance license;

(11) Knowingly acted as an insurance agency through persons not licensed as insurance producers, or acted as an insurance producer when not licensed as such; or

(12) Failing to comply with an administrative or court order imposing a child support obligation.

2. If the director denies an application for a license or renewal, the director shall notify the applicant or licensee in writing and advise the applicant or licensee of all reasons for the denial. The director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by law against any person who is under investigation for or charged with a violation of this chapter even if the person's license or registration has been surrendered or has expired by operation of law.

375.116. 1. An insurance carrier or [agent thereof or broker] **insurance producer** may pay money, commissions or brokerage, or give or allow anything of value, for or on account of negotiating contracts of insurance, or placing or soliciting or effecting contracts of insurance, to a duly licensed [broker] **insurance producer**.

2. Nothing in this chapter shall abridge or restrict the freedom of contract of insurance carriers or [agents thereof or brokers] **insurance producers** with reference to the amount of commissions or fees to be paid to such [brokers] **insurance producers** and such payments are expressly authorized.

3. No insurance [broker] **producer** shall have any right to compensation, other than commissions deductible from premiums on insurance policies or contracts, from any insured or prospective insured for or on account of the negotiation or procurement of, or other service in

connection with, any contract of insurance made or negotiated in this state or for any other services on account of such insurance policies or contracts, including adjustment of claims arising therefrom, unless the right to compensation is based upon a written agreement between the [broker] **insurance producer** and the insured specifying or clearly defining the amount or extent of the compensation. Nothing herein contained shall affect the right of any [broker] **insurance producer** to recover from the insured the amount of any premium or premiums for insurance effectuated by or through the [broker] **insurance producer**.

4. No insurance [broker] **producer** shall, in connection with the negotiation, procurement, issuance, delivery or transfer in this state of any contract of insurance made or negotiated in this state, directly or indirectly, charge or receive from the insured or prospective insured therein any greater sum than the rate of premium fixed therefor and shown on the policy by the insurance carrier obligated as such therein, unless the [broker] **insurance producer** has a right to compensation for services created in the manner specified in subsection 3 of this section.

375.121. Every insurance [broker acting as such] **producer** in this state shall be responsible in a fiduciary capacity for all funds received or collected [as an insurance broker,] and shall not, without the express consent of his **or her** principal, mingle any such funds with his **or her** own funds or with funds held by him **or her** in any other capacity. Nothing herein contained requires any [broker] **insurance producer** to maintain a separate bank deposit for the funds of each principal, if and as long as the funds so held for each principal are reasonably ascertainable from the books of account and records of the [broker] **insurance producer**.

[375.136. Any broker placing business with a nonresident agent of a nonadmitted insurance carrier or direct with a nonadmitted insurance carrier or nonresident broker shall be subject to the provisions of chapter 384, RSMo.]

[375.141. 1. The director may revoke or suspend, for such period as he or she may determine, any license of any insurance agent, agency or broker if it is determined as provided by sections 621.045 to 621.198, RSMo, that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have:

(1) In their dealings as an agent, broker or insurance agency, knowingly violated any provisions of, or any obligation imposed by, the laws of this state, department of insurance rules and regulations, or aided, abetted or knowingly allowed any insurance agent or insurance broker acting in behalf of an insurance agency to violate such laws, orders, rules or regulations which result in the revocation or suspension of the agent's or broker's license notwithstanding the same may provide for separate penalties;

(2) Obtained or attempted to obtain license by fraud, misrepresentation or made a material misstatement in the application for license;

(3) Been convicted of a felony or crime involving moral turpitude;

(4) Demonstrated lack of trustworthiness or competence;

(5) Misappropriated or converted to his, her or its own use or illegally withheld money belonging to an insurance company, its agent, or to an insured or beneficiary or prospective insurance buyer;

(6) Practiced or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with any insurance transaction;

(7) Acted as an insurance agency through persons not licensed as insurance agents or insurance brokers;

(8) Acted as an insurance agent, insurance agency, or insurance broker when not licensed as such;

(9) Had revoked or suspended any insurance license by another state;

(10) Committed unfair practices as defined in section 375.936;

(11) Sought the license for the primary purpose of soliciting, negotiating or procuring insurance contracts covering himself or herself or his or her family or insurance on property owned by his or her employer or any person who is employed by him or her or by a corporation, partnership or association of which he or she shall own or control a majority of the voting stock or a controlling interest;

(12) Is a legal resident of another state, licensed pursuant to section 375.017 or 375.126, which other state does not allow legal residents of Missouri to obtain a license to act as an agent or broker and to transact the business of solicitation of, negotiation for, or procurement or making of, insurance or annuity contracts;

(13) Owned or operated an insurance business in this state if the agent, broker or agency knew, or should have known, that the result was, or was likely to have been, an illegal placement of insurance with an unauthorized "multiple employer self-insured health plan" as that term is defined in section 376.1000, RSMo, or the subsequent servicing of an insurance policy illegally placed with an unauthorized multiple employer self-insured health plan.

2. The director may refuse to issue any license to any insurance agent, agency or broker if he or she determines that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have violated any of the provisions set out in subsection 1 of this section.

3. Every agent or broker licensed in this state shall notify the director, in writing, within thirty days, of any change in his or her residence address, and any agency licensed in this state shall notify the director, in writing, within thirty days, of any change in its business address. If the failure to notify the director of such change in address results in an inability to serve an agent, broker or agency with a complaint as provided by sections 621.045 to 621.198, RSMo, then the director may immediately revoke the license of said agent, broker or agency until such time as service may be obtained.

4. The director may also revoke or suspend under subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.]

[375.142. For a broker or agent licensed pursuant to this chapter, the director of the department of insurance may change such broker's or agent's anniversary date of issuance one time to coincide with the anniversary date for that broker's or agent's license.]

375.146. Any person willfully violating any of the provisions of sections [375.012 to 375.141] **375.013 to 375.111** is guilty of a class A misdemeanor and on conviction thereof, if the offender holds a license[under these]**pursuant to** sections **375.013 to 375.111**, the court imposing sentence shall order the department of insurance to revoke the license.

Section B. The repeal and reenactment of sections 375.019, 375.020, 375.031, 375.033, 375.035, 375.037, 375.039, 375.051, 375.065, 375.116, 375.121 and 375.146, and the enactment of sections 375.097, 375.098, 375.099, 375.100, 375.102, 375.103, 375.104, 375.105, 375.107, 375.108, 375.109, 375.110 and 375.111, shall become effective January 1, 2002.

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